FILED
AUGUST 19, 2002
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Michael McNeill,
Plaintiff-Appellant,
V.
TOWN OF PARADISE VALLEY, an Arizona town; et al,
Defendants-Appellees.

No. 01-17003
D.C. No. CV-99-00332-RCB

Appeal from the United States District Court
For the District of Arizona
Robert C. Broomfield, District Judge, Presiding
Submitted August 12, 2002
Before: SCHROEDER, Chief Judge, TASHIMA and RAWLINSON, Circuit Judges.

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Michael McNeill appeals the district court's judgment in favor of defendants in his action alleging civil

rights and Racketeer Influenced and Corrupt Organization Act ("RICO") violations stemming from the issuance of a traffic citation on the basis of a photo radar. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Barnett v. Centoni*, 31 F.3d 813, 815, 816 (9th Cir. 1994), and we affirm.

The district court properly dismissed the 42 U.S.C. § 1983 and RICO claims against Johnson and Lynch on grounds of judicial immunity, and Kennedy on grounds of prosecutorial immunity. *See Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir. 1986) (en banc).

A municipal entity cannot constitute a RICO enterprise; therefore, the RICO claim fails. *See Lancaster Comm. Hosp. V. Antelope Valley Hosp.*, 940 F.2d 397, 404 (9th Cir. 1991).

Summary judgment for Paradise Valley was proper because sending a traffic citation to the registered owner of a vehicle based on the photo radar system does not constitute a seizure under the Fourth Amendment. *See Brower v. County of Inyo*, 489 U.S. 593, 596 (1989) (A "seizure" under the Fourth Amendment "requires an intentional acquisition of physical control"). Additionally, because McNeill successfully challenged the citation in municipal court, he received all the process he was due. *Cf. Brady v. Gebbie*, 859 F.2d 1543, 1554 (9th Cir. 1988).

The district court properly denied McNeill's motion for a temporary restraining order. *See City of Los angeles, v. Lyons*, 461 U.S. 95, 111-112 (1983).

We have considered McNeill's remaining contentions and conclude that they lack merit.

AFFIRMED.